

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

**J & J MAINTENANCE, INC. d/b/a
J & J WORLDWIDE SERVICES**

Employer

and

Case 32-RC-214149

**STATIONARY ENGINEERS, LOCAL 39,
INTERNATIONAL UNION OF OPERATING
ENGINEERS, AFL-CIO**

Petitioner

and

**LABORERS' INTERNATIONAL UNION OF
NORTH AMERICA, LOCAL 220**

Intervenor

**REGIONAL DIRECTOR'S DECISION
AND DIRECTION OF ELECTION**

J & J Maintenance, Inc. d/b/a J & J Worldwide Services (the Employer) is a Texas Corporation with an office and place of business in Lemoore, California where it is engaged in the business of providing custodial services. On February 2, 2018, Stationary Engineers, Local 39, International Union of Operating Engineers, AFL-CIO (the Petitioner) filed a petition in Case 32-RC-214149 with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act, seeking to represent a unit of approximately seven Stationary Engineers, HVAC Technicians, Maintenance Mechanics, General Maintenance Employees, and Electricians (the Unit) employed by the Employer. The employees in the Unit are currently unrepresented.

A hearing officer of the Board held a hearing on February 12, 2018. The Petitioner, the Employer, and Laborers' International Union of North America, Local 220 (the Intervenor) appeared at the hearing and stipulated to all potentially litigable issues.

CONCLUSIONS AND FINDINGS

Based upon the record in this matter, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. The parties stipulated, and I find, that the Employer is engaged in commerce within meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.

3. The parties stipulated, and I find, that Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

4. The parties stipulated, and I find, that a question concerning commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act, and there is no bar to an election in this matter.

5. The parties stipulated, and I find that the following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time Stationary Engineers, HVAC Technicians, Maintenance Mechanics, General Maintenance Employees, and Electricians employed by the Employer at 926 Franklin Avenue, Lemoore, California; excluding confidential employees, guards, and supervisors as defined in the Act.

There are approximately 7 employees in the Unit.

Others Permitted to Vote:

The parties have agreed that accounting clerks may vote in the election but their ballots will be challenged since their eligibility has not been resolved. No decision has been made

regarding whether individuals in this classification or group are included in, or excluded from, the bargaining unit. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by STATIONARY ENGINEERS LOCAL 39, INTERNATIONAL UNION OF OPERATING ENGINEERS, AFL-CIO, or LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 220, or no Union at all.

A. Election Details

The election will be held on **Wednesday, February 28, 2018, from 10:30 to 11:30 a.m.** in the break room at the hospital, Room 1154 Staff Lounge, 937 Franklin Ave., Lemoore, CA.

B. Voting Eligibility

Eligible to vote are those in the Unit who were employed during the payroll period ending **January 15, 2018**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Also eligible to vote using the Board's challenged ballot procedure are those individuals employed in the classification whose eligibility remains unresolved as specified above and in the Notice of Election.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses,

available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters. The Employer must also include in a separate section of that list the same information for those individuals who, according to this direction of election, will be permitted to vote subject to challenge.

To be timely filed and served, the list must be *received* by the Regional Director and the parties by **Wednesday, February 21, 2018**. The list must be accompanied by a certificate of service showing service on all parties. **The Region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of

notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated at Oakland, California this 16th day of February 2018.

/s/ Valerie Hardy-Mahoney

Valerie Hardy-Mahoney
Regional Director
National Labor Relations Board
Region 32
1301 Clay Street Suite 300N
Oakland, CA 94612-5224